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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,008	12/30/2003	Jay R. Machael	087522-785-323	8391
28104	7590	05/11/2005	EXAMINER	
JONES DAY			EDEL, JOSEPH F	
77 WEST WACKER				
CHICAGO, IL 60601-1692			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 05/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/749,008	Applicant(s) MACHAEL ET AL.	
	Examiner Joseph F Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 23-25 is/are rejected.
- 7) ☒ Claim(s) 15-22, 26 and 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03/29/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "66" (Fig. 2) and "68" (Fig. 3) have both been used to designate the other end portion of the second link. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: page 5, lines 16-21 inadequately refer to copending applications.

Appropriate correction is required.

Claim Objections

3. Claim 1 is objected to because of the following informalities: "a third link" (line 14) should read --said third link--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 2, 8, 10-12, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,270,797 to Bräuning.

Bräuning discloses a chair that includes all the limitations recited in claims 1, 2, 8, 10-12, and 14. Bräuning shows a chair having a seat assembly 1 (Fig. 2a), a back assembly 8 (Fig. 2a), a frame assembly 2,4,11,13 (Fig. 1), a first link 7 (Fig. 2a) operatively connected to the back, frame, and seat assemblies, a first pivot 16 (Fig. 2a) pivotally connecting the first link relative to the frame assembly, a second pivot 6 (Fig. 2a) pivotally connecting the first link relative to the seat assembly such that the second pivot is approximately located beneath a user's hip joint, a second link 15 (Fig. 2a) operatively connected to the frame assembly and a third link 1.1 (Fig. 1) that operatively connects the seat assembly to the second link, a third pivot 18 (Fig. 2a) connecting the frame assembly and the second link, a fourth pivot 26 (Fig. 2a) connecting the second link and the third link, and a biasing member 23 (Fig. 2b) mounted to the frame

assembly that is deformable and made of a resilient material wherein the resilient material deforms by shifting the user's weight, the first and third pivots are fixed in position relative to the frame assembly, the second and fourth pivots are movable relative to the frame assembly, movement of the back assembly causes the first link to move the seat assembly, movement of the seat assembly pivots the second link, pivoting the second links causes the biasing member to deform, movement of the seat assembly induces stress in the biasing member, and movement of the seat assembly from the upright neutral position induces deformation of the biasing member and a biasing force to return the seat assembly to the upright neutral position.

6. Claims 1, 2, 8-14, and 23-25 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,709,058 B1 to Diffrient.

Diffrient discloses a chair that includes all the limitations recited in claims 1, 2, 8-14, and 23-25. Diffrient shows a chair having a seat assembly 111 (Fig. 1), a back assembly 112 (Fig. 1), a frame assembly 110 (Fig. 1), a first link 113 (Fig. 1) operatively connected to the back, frame, and seat assemblies, a first pivot 124 (Fig. 1) pivotally connecting the first link relative to the frame assembly, a second pivot 122 (Fig. 1) pivotally connecting the first link relative to the seat assembly such that the second pivot is approximately located beneath a user's hip joint, a second link 120 (Fig. 1) operatively connected to the frame assembly and a third link 119 (Fig. 1) that operatively connects the seat assembly to the second link, a third pivot 121 (Fig. 1) connecting the frame assembly and the second link, a fourth pivot 118 (Fig. 7) connecting the second link and the third link, and a biasing member 125 (Fig. 7)

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mounted to the frame assembly and being deformable and made of a resilient material wherein the resilient material deforms by shifting the user's weight, the first and third pivots are fixed in position relative to the frame assembly, the second and fourth pivots are movable relative to the frame assembly, movement of the back assembly causes the first link to move the seat assembly, movement of the seat assembly pivots the second link, pivoting the second links causes the biasing member to deform, the first link is connected at a first end portion to the back assembly and at a second end portion to the seat assembly and between the first and second end portions to the frame assembly, the third link is connected at a first end portion to a front portion of the seat assembly and at a second end portion to the second link, when in an upright neutral position a weight shift by a user causes the seat assembly to tilt downwardly thereby tilting the back assembly forward toward the seat assembly, when in an upright neutral position a weight shift by a user causes the back assembly to tilt rearwardly and the seat assembly to lift, and movement away from the neutral position without a weight shift by a user is minimized, movement of the seat assembly induces stress in the biasing member, and movement of the seat assembly from the upright neutral position induces deformation of the biasing member and a biasing force to return the seat assembly to the upright neutral position.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Diffrient in view of U.S. Publication No. 20020041118 A1 to Howell.

Diffrient discloses a chair that is basically the same as that recited in claims 3-7 except that the biasing member is not specified as a rubber block, as recited in the claims. See Figures 1-10 for the teaching that the resilient member (Fig. 7) is upwardly deformable when the back assembly tilts rearward and the seat assembly is raised, the resilient member is downwardly deformable when the back assembly tilts forward and the seat assembly is lowered, and the movement of the seat assembly is at a lower rate than the movement of the back assembly. Howell shows a chair similar to that of Diffrient wherein the chair has a back assembly 25 (Fig. 6), a seat assembly 3 (Fig. 6), a frame assembly 1 (Fig. 6), and a biasing member 29 (Fig. 1) mounted on the frame assembly that is a rubber block. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the chair of Diffrient such that the biasing member is formed of a rubber block, such as the chair disclosed in Howell. One would have been motivated to make such a modification in view of the suggestion in Howell that a biasing member formed as rubber block provides a tilting mechanism that is easier to construct and less expensive to manufacture.

Allowable Subject Matter

9. Claims 15-22, 26, and 27 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to chairs: U.S. Pat. No. 4,732,424 to Uredat-Neuhoff, U.S. Pat. No. 4,789,203 to van Zee et al., U.S. Pat. No. 6,349,992 B1 to Knoblock et al., and U.S. Pat. No. 6,572,190 B2 to Koepke et al.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

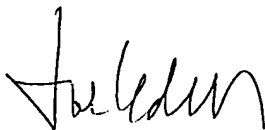
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Joe Edell". The signature is stylized with a large initial "J" and a cursive "Edell".

Joe Edell
May 6, 2005